

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

MICHAEL CAIN and JENNIFER CAIN,  
Individuals,

No. CV. 09-723-HU

Plaintiffs,

ORDER

v.

BOVIS LEND LEASE, INC., a Florida  
corporation; and WILLAMETTE VALLEY  
MEDICAL CENTER, LLC, a Delaware  
limited liability company;

Defendants and Third-  
Party Plaintiffs,

v.

WYLIE STEEL FABRICATORS, INC., a  
Tennessee corporation; and EARL  
SWENSSON ASSOCIATES, INC., a  
Tennessee corporation;

Third-Party Defendants.

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HERNANDEZ, District Judge:

Magistrate Judge Dennis J. Hubel issued a Findings and Recommendation (doc. #162) on July 14, 2011, in which he recommends that I grant in part and deny in part the motions for summary judgment (doc. #120, #127, and #132) filed by Willamette Valley Medical Center, LLC (“Willamette Valley”), Wylie Steel Fabricators, Inc. (“Wylie Steel”), and Bovis Lend Lease, Inc. (“Bovis”) (collectively, “Defendants”), respectively. In the Findings and Recommendation, the Magistrate Judge also recommends that I grant the motion for partial summary judgment (doc. #123) filed by Earl Swensson Associates, Inc. (“ESA”).

Plaintiff Michael Cain and Jennifer Cain (collectively, the “Cains”) and Defendants timely filed objections to the Magistrate Judge’s Findings and Recommendation. The matter is now before me pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure.

When any party objects to any portion of the Magistrate Judge’s Findings and Recommendation, the district court must make a de novo determination of that portion of the Magistrate Judge’s report. 28 U.S.C. § 636(b)(1); Dawson v. Marshall, 561 F.3d 930, 932 (9th Cir. 2009); United States v. Reyna–Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc).

I have carefully considered the parties' objections and conclude that the objections do not provide a basis to modify the Findings and Recommendation. I have also reviewed the pertinent portions of the record de novo and find no error in the Magistrate Judge's Findings and Recommendation.

### **CONCLUSION**

The Court ADOPTS Magistrate Judge Hubel's Findings and Recommendation (doc. #162). Defendants' motions for summary judgment (doc. #120, #127, and #132) are therefore granted in part and denied in part, and ESA's motion for partial summary judgment (doc. #123) is granted. Oral argument is unnecessary.

IT IS SO ORDERED.

DATED this 12<sup>th</sup> day of September, 2011.

/s/ Marco A. Hernandez

Marco A. Hernandez  
United States District Judge